

MINUTES
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD MEETING
Snyderville Basin Water Reclamation District
2800 Homestead Road
Park City, Utah 84099
October 31, 2003
9:30 a.m.

UTAH WATER QUALITY BOARD MEMBERS PRESENT

David Echols	Ray Child
Dianne Nielson	Neil Kochenour
Bill Williams	Rob Adams
Mayor Douglas Thompson	Mayor Joe Piccolo

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Don Ostler, Walt Baker, Faye Bell, Sid Curnow, Tim Beavers, Harry Judd, Chris Imbrogno, Ed Macauley, Kiran Bhayani, Randy Taylor, Mike Reichert

OTHERS PRESENT

<u>Name</u>	<u>Organization Representing</u>
Bryan Davis	Nibley City
Brad Rasmussen	Aqua Engineering
Michael Luers	SBWRD
Michael Boyle	SBWRD
Steve Vuyovida	HRO
Mark Atemjo	JVWCD
Bruce Ward	Aqua Engineering/Salem City
Dave Johnson	Salem City
David Boshand	North Fork SSD
Fred Nelson	Attorney Generals Office
Rick Rathbun	Attorney Generals Office
Jared Manning	Water Rights
Alden Robinson	Sunrise Engineering, Inc.
Larry Anhder	Nibley City
Lynn Welker	Nibley City
Bill Bradwisch	Div of Wildlife Resources
John Bennett	GOPB/Quality Growth Commission

Chairman Williams called the Board meeting to order at 9:35 a.m. He welcomed those in attendance and invited the members of the audience to introduce themselves.

APPROVAL OF MINUTES OF THE SEPTEMBER 2, 2003 MEETING

Motion: It was moved by Mayor Piccolo, seconded by Mr. Rob Adams and unanimously carried to approve the minutes of September 2, 2003 as written.

EPA Administrator Confirmation Process: Dianne Nielson, Director of Department of Environmental Quality gave an overview of nomination and confirmation process of Governor Leavitt to become the Administrator of the Environmental Protection Agency. Ms. Nielson explained that during this process the State of Utah and particularly the Department of Environmental Quality was being viewed under a microscope. Due to the tremendous work being done within Divisions of the Department, we were able to present a favorable impression of the state's environmental policies.

Introduction of new Division of Water Quality staff: Mr. Ostler introduced Walt Baker as the new Manager of the Engineering and Water Quality Management Branch, replacing Jay Pitkin who retired; Randy Taylor, formerly with the Division of Environmental Response and Remediation, as the new Manager of the Permits and Compliance Branch, replacing Fred Pehrson who retired; and Ed Macauley as the new Manager of the Construction Assistance Section, replacing Walt Baker. Filling the position of Manager of the Ground Water Section, left vacant by the departure of Dennis Frederick, will be Rob Herbert, formerly with the Division of Radiation Control.

Enforcement Update: Mr. Imbrogno made the persention to the Water Quality Board in behalf of Peter Gessel who was unable to attend. A Notice of Violation (NOV) was issued to Miller Brothers Express on February 1, 2003 for failure to comply with the Utah Water Quality Act and other multiple permit conditions over a period of eight months. The violations included two documented unpermitted discharges from a manure composting area and a breach of a runoff containment pond. Miller Brothers was also cited for failure to follow proper 2-hour notification and other key permit requirements. A Settlement Agreement was signed by Miller Brothers Express in August and issued for public comment on September 2, 2003. In the Settlement Agreement, Miller Brothers Express agrees to pay the Division of Water Quality \$5,472 for the violations and to pay additional stipulated penalties if related violations occur within the next two years.

Salem City Request for Board approval to modify BOD and TSS requirements for its lagoon discharge. Mr. Imbrogno explained that Administrative Rule R317-1-3 (G) provides the Board the ability to allow alternate BOD₅ and TSS limits on a case by case basis if the applicant adheres to five specific criteria (included in the packet on Tab 3.1). It is staff's recommendation that the Water Quality Board grant approval of Salem City's request for alternative limits of 45 mg/l for BOD₅ and TSS for the 30-day average, and 65 mg/l for BOD₅ and TSS for the 7-day average, with a total percent removal rate for BOD₅ and TSS of 65%.

Motion: Mayor Piccolo moved that the Board approve staff's recommendation. The motion was seconded by Dr. Kochenour and was unanimously approved by the Board.

LOAN PROGRAM

Financial Assistance Status Report – Mr. Curnow updated the Board on the "Summary of Assistance Program Funds" as outlined on page 4.1.

North Fork Funding Request (First Hearing) – Mr. Beavers introduced Rick Tremmel, Stuart Olsen and Dave Bischard of North Fork, and Rick Noll of Forsgren Associates who is the consulting engineer. North Fork Special Service District (NFSSD) is requesting financial assistance in the amount of \$2,124,023 for the planning, design and construction of a mechanical wastewater treatment facility to

replace large on-site wastewater treatment and disposal systems. Mr. Echols asked about the planned development within the Sundance Resort. Mr. Olsen responded that there are preliminary plans for 40 residential lots and several small commercial facilities. Ms. Nielson questioned the allocation of loan funds being used for an expansion of a commercial activity and would like more information regarding the alternatives for funding the commercial aspect of the loan. Referring to the recent loan made to Moroni Feed and Moroni City, where Moroni Feed is a major beneficiary, Ms. Nielson noted there was a more significant contribution made by Moroni Feed and what she sees being contributed by Sundance is not significant. Mr. Beavers noted that Moroni Feed's contribution was more in terms of providing security for the loan rather than a capitol contribution. Mr. Tremel responded that the District has already discussed a similar security agreement with Sundance. This project is being presented as an introduction to the Water Quality Board.

Nibley City Funding Request (ACTION ITEM) – Mr. Beavers introduced Mayor Lynn Welker, Larry Anhder, City Manager, and Alden Robinson and Bryan Davis with Sunrise. Nibley City is requesting an increase of \$475,000 to the \$7,464,000 loan and \$700,000 Hardship Grant funding previously authorized by the Water Quality Board (WQB) for the construction of a centralized wastewater collection and conveyance system. The request will fulfill what is needed to conclude the project because of cost overruns due to unforeseen groundwater conditions on the project. On June 15, 2001, the Board authorized a \$6,104,000 loan for a term of 30 years at zero percent interest along with a \$700,000 Hardship Grant. Then on August 9, 2002, Nibley City approached the Board for an increase of \$1,360,000 to its previously authorized loan. The increase was primarily due to unforeseen ground water conditions on the project. At that time the costs to finish the projects were estimates. Now that most of the construction has been completed, the actual costs are known. Sizeable over runs in project costs resulted from pumping and additional asphalt and fill materials. Nibley City has worked diligently with the contractor to negotiate the costs associated with the ground water conditions on the project. Expensive litigation has been avoided and the two parties have reached an agreement. Staff recommends that the previous funding authorization to Nibley be augmented with a loan in the amount of \$275,000 with a 30-year repayment term and a zero (0%) percent interest rate and an increase of \$200,000 to the previously authorized Hardship Grant. The new loan amount would be \$7,739,000 and the Hardship Grant would be \$900,000. Ms. Nielson suggests that staff go to the Utah Geological Survey to look at the technical information on the location of this project and see if there is information available that may have helped foresee the ground water problem allowing better estimates of costs.

Motion: Following an extensive discussion Mayor Piccolo moved that the Board approve staff's recommendation together with the special conditions. The motion was seconded by Mr. Echols and was unanimously approved, with Rob Adams and Mayor Doug Thompson abstaining due to potential conflicts of interest.

RULEMAKING:

Request to Initiate Rulemaking to R317-1, TMDLs: Mr. Judd presented to the Board the proposed administrative rule that will allow completed and approved TMDLs to be incorporated by reference into the rule. Included in the packet is a summary of the purpose of TMDLs and a listing of completed TMDLs. At the June 13, 2003 meeting the Board authorized the Executive Secretary to initiate rulemaking and public notice on TMDLs before presenting them to the Board for adoption. Upon completion of public notice, staff will present the TMDLs to the Board for approval.

Motion: Mr. Adams moved that the Board approve staff's recommendation to take R317-1 to rulemaking. The motion was seconded by Mayor Thompson and was unanimously approved.

Request to Initiate Rulemaking to R317-401, Gray Water Reuse: Mr. Bhayani presented to the Board the proposed administrative rule that allows the use of graywater originating from laundries, showers, tubs and lavatories for subsurface irrigation only. The rule does require an acceptable backup system to be in place. The rule provides for the services of a contract service provider for operation and maintenance at the option of local health departments. Staff requests authorization to begin the rulemaking process. Staff proposes to hold two public hearings in late November in Salt Lake City and St. George to receive comments and broaden the understanding of the proposed rule. The staff will likely return to the Board to recommend adoption of the rule in January or February 2004. This will allow local health departments to be ready to receive an approval authority in time for the construction season.

Motion: Dr. Kochenour moved that the Board approve staff's recommendation to take R317-401 to rulemaking. The motion was seconded by Mayor Piccolo and was unanimously approved.

Adoption of R317-1-4, Effluent Reuse: Mr. Baker presented R317-1-4 for adoption. The purpose of the rule is to clarify the requirements of the State Engineer's office relative to water rights issues and the reuse of wastewater effluent. Under the proposed rule change an entity that proposes to reuse effluent from a treatment plant must provide evidence that the intended use of the effluent is consistent with the underlying water right of the source water. Public comments were received and addressed by staff during the initial public comment period (April 15th to May 15th). No comments were received during the recent comment period which ended October 15, 2003. Staff recommends the Water Quality Board adopt the proposed change to this administrative rule.

Motion: Mr. Adams moved that the Board approve staff's recommendation to approve the adoption of the proposed changes to R317-1-4. The motion was seconded by Mr. Echols and was unanimously approved.

OTHER BUSINESS:

Report from WQ Board Subcommittee on Quality Growth: Mr. Adams gave a slide presentation of the meeting held on September 26, 2003 with John Bennett from the Governor's Office of Planning and Budget. Participating in that meeting were: Walt Baker, Don Ostler, Faye Bell, Bill Williams, Ann Weschsler, Dave Echols, Rob Adams John Bennett and representatives of the Drinking Water Board. Members of the Board and staff discussed the presentation of John Bennett given to the Board at the September 2, 2003 Water Quality Board meeting. The items contained in the minutes of the subcommittee were discussed. The Board expressed a desire to discuss this further in a future meeting.

Update on Jordan Valley Water Conservancy District Discharge Permit appeal: Mr. Nelson explained to the Board that sometime in the future, possibly closer to spring, a formal hearing may occur requiring the Board's participation. He explained that for any hearings on this matter he will represent for Dianne Nielson, the State Natural Resource Damage Trustee, Laura Lockhart will represent the Division of Water Quality staff, and Rick Rathbun will represent the Water Quality Board. Due to conflicts, Dianne Nielson, Chairman Bill Williams, and Vice Chairman Ray Child asked to be recused from the hearing.

Legislative Water Funding Task Force Recommendations: Mr. Baker presented to the Board the recommendations of the Water Funding Alternative Task Force. On September 16, 2003 the task force made its conclusions and recommendations to the Water Development Commission. These included: 1) current levels of funding for water, wastewater and storm water projects are inadequate to meet projected needs, 2) 1/16% of sales tax revenues are currently appropriated to the state water loan programs and should be maintained and augmented; 3) Utah cannot afford to neglect water development given its

projected population growth, 4) rural development is particularly dependent on state-managed water funding; 5) efforts must continue in educating Utah citizens about prudent conservation methods; 6) better land development codes must be enacted to protect valuable water resources and pass along the costs of new water infrastructure to those who will benefit; and 7) institutional, legal and environmental impediments to water reuse must be overcome.

319 Projects Report: Mr. Reichert referred the Board page 6.0 of their packets which summarizes the projects that tentatively will be funded through Utah's allocation from the FY 2004 Nonpoint Source Pollution Program that is funded under Section 319 of the Federal Clean Water Act.

NEXT MEETING

The next Water Quality Board meeting will be held on December 5, 2003 at the Cannon Health Building in Salt Lake City, in Room 125 at 9:30 a.m.

William Williams, Chairman

Located in:
Dwham/wp/minutes/Sept 2, 2003 WQ minutes.doc